

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

JONATHAN HOLLANDER,  
Plaintiff,  
v.

No. 3:11-cv-01200-HU

**OPINION AND  
ORDER**

RAINIER SCHOOL DISTRICT,  
Defendant.

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HUBEL, Magistrate Judge:

The court previously, with the agreement of plaintiff and defendant, set a hearing on September 17, 2013, to discuss the disagreement over the terms of the protective order submitted as a result of a hearing on August 2, 2013, in which a number of motions were discussed and resolved. The August 2 hearing also resolved a number of disputes raised orally by the defendant regarding the adequacy of plaintiff's response to defendant's interrogatories and request for production of documents. The August 2 hearing also resulted in a date being set for plaintiff to appear for his deposition.

1 The hearing on September 17, 2013, regarding the terms of the  
2 protective order did not occur because plaintiff notified the court  
3 that he was unable to attend because his medical condition that  
4 morning required him to seek treatment urgently. The protective  
5 order discussion was rescheduled for October 7, 2013, to  
6 accommodate plaintiff's need for medical treatment. However,  
7 plaintiff was again medically unable to attend the October 7  
8 hearing. Plaintiff notified the court of this that morning in an  
9 email he left with the Courtroom Deputy Clerk. All attempts by the  
10 court to communicate with the plaintiff about a new date for the  
11 protective order discussion have been unsuccessful.

12 Resolution of the protective order terms is a necessary  
13 condition precedent to plaintiff producing what the court has  
14 ordered him to produce to the defendant. That production is  
15 necessary prior to plaintiff's deposition. The court is advised  
16 that the attempt to go forward with the plaintiff's deposition  
17 resulted in plaintiff leaving the deposition before its conclusion  
18 because of a dispute about the questions being asked. That dispute  
19 has resulted in the several motions being filed which remain  
20 pending as a result of the court not hearing from plaintiff about  
21 a date for the resolution of the issues which are accumulating in  
22 this case.

23 The court currently has a hearing scheduled for October 30,  
24 2013, at 10:00 AM to address (1) plaintiff's motion [69] to limit  
25 or terminate his deposition; (2) defendant's motion [71] for an  
26 extension of time in which to file a response/reply to plaintiff's  
27 motion for summary judgment; and (3) defendant's motion [75] to  
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1 dismiss for lack of prosecution. The court will also take up the  
2 protective order dispute and related issues on October 30.

3 By October 25, 2013, at 4:00 p.m., plaintiff must confirm, in  
4 writing, that he is medically able to attend that hearing and  
5 address the reasonably prompt prosecution of his claims from this  
6 point forward, or notify the court he cannot attend the hearing at  
7 all and why. Assuming plaintiff can attend the hearing on October  
8 30, it will proceed and resolve the motions set for that date, and  
9 the issues about the protective order. If plaintiff cannot or does  
10 not attend on October 30, or does not notify the court about his  
11 attendance on October 30 by October 25th, plaintiff should be  
12 prepared for the court to schedule a hearing to show cause why the  
13 case should not be dismissed for lack of prosecution, and whether  
14 such a dismissal should be with or without prejudice. The hearing  
15 on October 30, 2013 shall be in person, in court, unless a party  
16 requests in writing permission to attend by telephone, and receives  
17 permission to do so for good cause shown.

18 IT IS SO ORDERED.

19 Dated this 22nd day of October, 2013.

20 /s/ Dennis J. Hubel

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22 DENNIS J. HUBEL  
23 United States Magistrate Judge  
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